

1 Michele R. Stafford, Esq. (SBN 172509)
2 Erica J. Russell, Esq. (SBN 274494)
3 SALTZMAN & JOHNSON LAW CORPORATION
44 Montgomery Street, Suite 2110
4 San Francisco, CA 94104
(415) 882-7900
5 (415) 882-9287 – Facsimile
mstafford@sjlawcorp.com
erussell@sjlawcorp.com

6 | Attorneys for Plaintiffs

7 Justin D. Harris, Esq. (SBN 199112)
MOTSCIEDLER, MICHAELIDES, WISHON,
8 BREWER & RYAN, LLP
1690 West Shaw Avenue, Suite 200
9 Fresno, CA 93711
(559) 439-4000
10 (559) 439-5654 – Facsimile
jdh@mwmbr.com

Attorneys for Defendants

UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

15 RUSSELL E. BURNS, et al.,

Case No.: C13-3968 YGR

16 | Plaintiffs,

V.

18 HALOPOFF & SONS, a California Corporation; JOHN HALOPOFF, an individual

Defendants

**JOINT REQUEST FOR CONTINUANCE OF
CASE MANAGEMENT CONFERENCE;
[PROPOSED] ORDER THEREON**

Date: October 27, 2014

Time: 2:00 p.m.

Ctrm: 1, 4th Floor

1301 Clay Street
Oakland, California

Judge: The Honorable Yvonne Gonzalez Rogers

Plaintiffs and Defendants respectfully request that the Case Management Conference, scheduled for Monday, October 27, 2014, at 2:00 p.m., be continued for approximately thirty (30) days. Good cause exists for the granting of the continuance as follows:

26 1. As the Court's records will reflect, this action was filed on August 27, 2013 to
27 compel Defendants to comply with the terms of their Collective Bargaining Agreement.

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1 2. Plaintiffs served the Summons and Complaint on Defendants on September 4,
2 2013.

3 3. Plaintiffs performed an audit of Defendants' payroll records for the period of
4 August 1, 2012 through November 30, 2013. The audit revealed Defendants owed Plaintiffs
5 approximately \$127,000.00 for unpaid contributions, plus liquidated damages, interest, and audit
6 fees.

7 4. Defendants are also indebted to Plaintiffs for approximately \$121,000 for unpaid
8 contributions for the period from September 2012 through January 2014, plus liquidated damages
9 and interest on all unpaid and late-paid contributions through January 2014.

10 5. The parties met and conferred regarding amounts due to Plaintiffs, and Defendants
11 claimed that due to financial hardship they are unable to make any payments to Plaintiffs toward
12 their debt. Defendants failed, however, to provide any evidence supporting their claim of financial
13 hardship.

14 6. In order to evaluate Defendants' claim of financial hardship, the Court ordered
15 Defendants to produce various documents related to their financial status pursuant to the parties'
16 Joint Request re Production of Documents, filed on June 20, 2014.

17 7. Defendants produced the following documents in response to the Court's Order: a
18 list of all shareholders of Defendant Halopoff & Sons; copies of several deeds of trust and security
19 filings affecting Defendants' property; the names and titles of all persons who have a financial
20 interest in Defendant Halopoff & Sons; Defendants' tax returns for 2010 and 2011 and a summary
21 of unpaid payroll taxes; bank statements for January 2013 through February 2014, interim income
22 statements and interim balance sheets for the periods ending May, 31, 2013 and June 30, 2013;
23 and several loan agreements. Defendants failed, however, to provide their tax returns for the years
24 2012 and 2013 and financial statements prior to January 2013 because Defendants contend those
25 documents were not prepared. Defendants agreed to provide financial statements for 2011 and
26 2012 should Plaintiffs request them and to the extent they were prepared.

27 8. Plaintiffs provided the documents Defendants produced to Plaintiffs' auditors for
28 review.

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1 9. Plaintiffs' auditors' review of Defendants' records is complete. The parties have
2 continued to meet and confer regarding amounts owed to Plaintiffs and are working toward an
3 informal resolution of this matter.

4 10. If an informal resolution cannot be reached, Plaintiffs will file a Motion for
5 Summary Judgment against Defendants.

6 11. There are no issues that need to be addressed by this Court at the currently
7 scheduled Case Management Conference. In the interest of conserving costs, as well as the
8 Court's time and resources, the parties respectfully request that the Court continue the currently
9 scheduled Case Management Conference for approximately thirty (30) days to allow sufficient
10 time for the parties to reach an informal resolution of this matter.

11 Dated: October 20, 2014

**SALTZMAN & JOHNSON
LAW CORPORATION**

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16 Dated: October 20, 2014

**MOTSCHIEDLER, MICHAELIDES,
WISHON, BREWER & RYAN, LLP**

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IT IS SO ORDERED.

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Date: October 20, 2014


THE HONORABLE YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT

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